7:Columbia U. S-4, 5 1956 RH1 , CaucasiaRH1
GeorgieRI1
Swan

C. G. 361 342 over the wooden lattice of the horizontal roof frame. These flat roofs are also much used for growing cereals, vegetables, curing meat, etc. The sakhli is also the common type of house in most parts of Anatolia and Iran, where we also find the staircase-like arrangement of the sakhlis on the mountain slopes.

C. G. 628 These are the lands where the kings of Sak'art'velo or the Emirs and Khans of Shirvan and Arran had no say, nor did the Caliph in Baghdad or the Roman Emperor have any authority, with the result that feuds were fought right on the spot. Thus, there were times when not only one aul fought another, but even one clan or family fought another within the same aul. Hence the many small castles; hence a man always carried his kinzhal; hence such customs as the vendetta, the qan-alma (Turkic: "taking of blood"), which have been preserved there down to the present time. Svanet'ia consists of three small lands: Free Svanet'ia, Svanet'ia of the Dadishkeliani, and Svanet'ia of the Dadiani, the latter two named after the families of their former overlords. Many pagan elements are found in the Eastern Orthodox religion of these valiant mountaineers, although to a lesser degree than is true of the Oset'i, as mentioned above, or some of the Dagestanians, who were later converted to Islam.

C. G. 631

C. G. 771

LAW AND CUSTOM

671 Among the moutaineers the rights and duties of each individual and penalties for offences were regulated in detail by an unwritten body of rules (adat), which remained largely unchanged among the Christian Kartvelians, and which never quite yielded to
628 Muslim law (shariate). Among the North Caucasians, a killing - whether deliberate or accidental -- resulted in a blood feud, which could last for generations. The revenge had to be carried out by a close male relative, usually a brother or son. Friends of the blood-guilty could try to arrange a peace, and the injured family could then accept a "blood-price," which varied according to the social rank of the victim.
[608] Also, the milk-relationship was considered so sacred that its establishment could end a feud. Thus among the Circassians a person guilty of blood could kidnap a young child from the injured family and bring it up; he thus became the child's atalyk and a milk-relationship was established between him and the family.

Besides manslaughter, blood feuds also resulted from abduction of married women, adultery, and from certain grave insults, e. g. throwing out of the house the kettle that was suspended over the hearth; among the Tush, who were seminomadic pastoralists, also from cattle-stealing.

681 For less serious injuries the adat prescribed in detail compensations in kind. E. g.

[Cf. cat. 116, pp. 527-528 -- Analyst]

577 The mountaineer's touchiness and vengefulness are connected with the stress laid on personal dignity and group-loyalty in Caucasian culture; they go back to the times of blood feuds, intertribal wars and the constant danger of armed attack. Formerly, in the mountaineers' conception of life, wars and predatory raids formed a more honorable way of existence than agriculture and cattle breeding. Only a life of danger and audacity could win a man public esteem, and during the Caucasian war a family that had not lost one or more members in the field was looked down upon with contempt. The inducement to wars and raids was furnished as much by the action itself as by the possible gains. The Circassian who had risked his life in a raid to seize a herd of horses was ready to part with his booty at the first request or even hint of a person who was in need; the "Circassian tradition" required compliance with any request for material help. Material possessions were not placed high in the scale of values; more important was public esteem, and loss of face was feared above all else. The mountaineer is proud, both of his people and their traditions, and in a personal way. He is easily offended, and in the old days offense easily led to bloodshed (a fistfight was considered a disgrace, so that violence was always committed with arms); and an unrevenged killing was the worst shame that could rest on a house.

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628 The vendetta flourished until well into the Soviet period, as is witnessed by official pamphlets of the twenties combating it.

8: Lužbetak E-4 (no date) 1951 RHl Caucasia RHl

582 608 853 them to each other."[85] The Utsmi or Usmi were rulers of Kaitag, said to date from the Arab conquest in the eighth century or soon after.[86] The custom of the Usmi did more than merely endear the baby prince to his subjects. The inhabitants actually considered the prince their foster-brother and for him they were ready to die, for milk-relationship implied as strong a tie as that of consanguinity.[87] The anonymous *Tagebuch* (p. 59)[88] gives us another example: an Ingush "murderer of an only son flies to the mother and, dagger in hand, compels her to give him her breast. Other relatives demand blood-revenge, but the woman, whose right it is to decide, says 'now that he has sucked my breast, if you kill him I lose *two* sons,' and the murderer's life is spared."[89]

Both forms of adoption, by actual and by ceremonial breastsucking, are in full accord with the *šarī'a*. According to the Koran, iv. 27, relationship by milk constitutes an impediment as stringent as that of blood propinquity. Excluded from marriage are the woman and her adopted child; the child and all those suckled by the same woman; the child with all his descendents and the woman who suckled him with all her milk and blood relatives and those of her husband. Such kinship is known in Islamic law as *raḍâ* or *raḍâ'h*[90]

It is difficult to determine just in how far the Caucasian practice is dependent on that of Islamism. The explorers and *adat* collectors fail to tell us to what degree marriage between milk-relatives is looked upon as incestuous. In all probability the institution existed in the Caucasus long before the introduction of the Koran. It seems to be pre-Islamic for various reasons. First of all, the custom is not limited to Mohammedan Caucasians but is found among Christian tribes as well, for example in Armenia.[91] Moreover it is very difficult to imagine that a *mere* ceremony, and a *foreign* one at that, could dispense a Caucasian from the most sacred obligation of avenging the blood of a murdered relative. Anyone who has studied Caucasian customary law will admit that perhaps no *adats* are so unchangeable as those regarding blood-feuds. It is unintelligible how an imported ceremony, especially among tribes that have been converted to Islamism rather recently and then only half-heartedly, could change these almost unchangeable *adats*. Finally, relationship by milk is neither an Islamic invention nor restricted to Mohammedan countries (it is found, for example, also among the nomadic peoples of Asia); it could exist in the Caucasus independently of Mohammedanism too.

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[85] G. Ellis, *Memoir of a map of the countries comprehended between the Black Sea and the Caspian nations and vocabularies of their languages*, London, 1788, pp. 40 f.

[86] Baddeley, *The Rugged Flanks of Caucasus*, II, p. 18, note. Ellis, *l. c.*

[87] Baddeley, *l. c.*

[88] *Tagebuch einer Reise, die im Jahr 1781 von der Gränzfestung Mosdok nach dem innern Caucasus unternommen worden*, Leipzig and St. Petersburg, 1797. A certain Steder is the author.

[89] Baddeley, *op. cit.*, I, p. 262.
U. Laudaev, "Primĕčanija k statĕ čečenskoe plemja," SMOMPK, VI (1872), p. 50.

[90] Th. W. Juynboll, *Handbuch des islâmischen Gesetzes nach der Lehre der schâfi'itischen Schule nebst einer allgemeinen Einleitung*, p. 219.

[91] Baddeley, *op. cit.*, I, p. 263.

582 597 relationship by milk. As is well known, Mohammed had an adopted son, his own emancipated slave named Zaid ibn Ḥâriṯah, who had a beautiful wife, at least beautiful in the eyes of the Prophet. Mohammed persuaded Zaid to divorce her and thus to make it possible for the Prophet to marry her. The faithful, however, were greatly scandalized, for the "sinless" Prophet married the wife of his "son". Mohammed seemed to have no way of extricating himself from this awkward position, but fortunately Allah had pity on him and favoured him with another revelation according to which all fosterage is sinful and non-existent. If anyone dares to call another person by the name of "father" and if that person did not actually beget him, he will infallibly be cursed by Allah and all His Angels.[104] In the Caucasus children are adopted and, as is the case with the Cherkess today, enjoy the full and equal rights of natural sons and daughters.[105] M. Kovalevskij found adoption in practice among the Ossetes. Here too the adopted son would be regarded as a true "son" who was able to perpetuate the family.[106] Formerly fictitious relationship could arise among the Cherkess by a mere pronouncement of the formula, "I adopt you," or "You are my daughter," or "You are my sister." From that moment the person adopted would have to consider the relatives of the person who pronounced the formula, as his own. A murderer could form a fictitious relationship in Ossetia by consecrating himself to his victim in a special ceremony at his grave.[107] Among the Ossetes adoption sometimes took place before the mother of the family. The person to be adopted would say to her, "From today on you are my mother; I am your son." The mother would then uncover her breast and answer, "I am your mother; you are my son."[108] As is only to be expected, adoption occurs very rarely, in fact only in extreme necessity to prevent extinction of the family. Adoption cannot be frequent because the mountaineers insist on purity of blood, and to adopt a child unnecessarily would imply giving away family property to a fictitious member.[109] Owing to the lack of data, we can only call the attention of the fieldworker to the following two problems: firstly, exactly *which* tribes consider adoption an impediment to mating; secondly, to which degree of fictitious relationship.

[602] [628] [608]

4. Disparity of Social Rank

505 [582] We now come to the obligation of marrying exclusively within one's own social rank. But before we can begin to speak of this form of endogamy we must briefly describe the social stratification in the Caucasus.

The NORTHWESTERNERS. The *Abkhazian* society was formerly divided into four distinct classes: (1) the princes, (2) the *Chinakma*, i. e., the

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[104] Koran, xxxiii, 5. Cf. J. Henninger, *Die Familie bei den heutigen Beduinen Arabiens und seiner Randgebiete*, Leiden, 1943, p. 64. Juynboll, *op. cit.*, p. 187. R. Roberts, *Das Familien-, Sklaven- und Erbrecht im Qorân*, Leipzig, 1908, pp. 39 ff.

[105] Ladyženskij, FT, p. 202.

[106] Kovalevskij, *Coutume contemp.*, p. 203.

[107] Kovalevskij, *op. cit.*, p. 204.

[108] *ibid.*

[109] Kovalevskij, *op. cit.*, p. 203.

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6. Impediment Arising from Failure to Carry Out an Obligation of Vengeance

628 Vengeance is a sacred obligation among all the Mountain Tribes of Caucasus.
614 If a member of the sib is murdered or killed accidentally,[182] if a member of the family is raped or abducted, if the sacred hearth-chain is violated, or if the sib is offended seriously in any other way, the injured party incurs the strict and sacred obligation of vengeance. Self-defense calls for vengeance, for in the eyes of the mountaineers there is no competent authority common to the offender and the offended, who might compel the culprit's sib to repair the injury done. The blood of the victim, self-respect, and respect for the ancestors call for vengeance. Usually the nearest male relative of the victim has the obligation to kill the offender or one or more of his sib, depending on the local *adat*. Although the vendetta has become more a thing of the past, it still does occur now and then in our own days. Even today reconciliation (bloodwite) is regarded as a disgraceful exchange for the noble blood of a member of the family and at
[582] times is refused.[184] Blood calls for blood alone! Even today, if a young mountaineer fails to carry out his sacred obligation of avenging an enemy (regardless of Soviet laws), he may have to remain single for the rest of his life, for no respectable girl would wish to marry him.[185]

[672] [182] If a paner-by is killed by a stone kicked down a cliff by a sheep or goat, the owner of the animal becomes the blood-enemy *(qanly)* of the victim's sib. For other examples of similar customary laws see Dirr, AGKB, p. 107. Even in our own days accidents may be punished by death. See A. H. Günther, "Zusammenstöße zwischen Gesetz und Gewohnheitsrecht im nördlichen Kaukasus," *Zeitschr. f. vergl. Rechtsw.*, XLVI (1931), pp. 332 ff.

[184] Günther, *op. cit.*, p. 329.

[185] Günther, *op. cit.*, p. 327. For blood-feuds in the Caucasus see the works of Dirr and Günther just cited, S. Karginov, "Krovavaja mest' u Osetin," SMOMPK, XLIV (1914), No. 3, and Berže, *Čečnja i Čečency*.

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fire in the hearth is extinguished, and the future bride and groom must clasp hands as a concluding betrothal ceremony.[6] Only now do the negotiations regarding the *kalym* begin.[7]

The NORTHEASTERN CAUCASIANS. Instead of describing the customs of each Chechen tribe individually, we shall present the engagement customs of the most primitive of Chechen tribes, the Ingushi. The father of the suitor visits the family of the prospective bride personally.[8] Stereotyped procedure is the rule, and he is fully aware of this observance. At the first and second visit the girl's family is obliged by etiquette to make excuses, and by no means may a decision be reached. At the third visit the girl's father will utter his long awaited consent. The matchmakers may never visit the bride's father empty-handed. Usually they bring a ram to treat the family to a little dinner and to create a friendly atmosphere for the discussion regarding the marriage. If for some reason or other the marriage be considered undesireable, etiquette demands that an outright refusal be avoided; instead, the girl's family must demand an excessive *kalym* or make other impossible stipulations. If the father of the girl has given his consent, a betrothal feast must be prepared,[9] on which occasion the suitor presents his future wife with an engagement gift of Rs. 10 and a silk cloth.[10] The local mullah is then called and a formal engagement contract is drawn before the usual two witnesses.[11] Two or three months later, the date of the marriage is agreed upon. Once the couple is officially engaged, the entire *taipan* becomes extremely interested in them, doing them all sorts of favours.

In Leontovič's *adat* collection we find another form of matchmaking. A brother is obliged to arrange a marriage between his sister and a friend who has "drunk to her health and offered her brother a gift." A failure to carry out this obligation will turn an intimate friend into the bitterest foe, and rightly so, says the *adat*, because such a neglect is a serious crime, a blood-offense, which necessarily calls for revenge no less than does murder.[12] This means of arranging a marriage is very rare and resorted to by the North Caucasians, especially the Ingushi, only after a refusal.[13] This *adat* is especially interesting because it overrules the sacred, inviolable *patria potestas* and so many other *adats* regarding choice of mates and engagement. This may very well be a vestige of a right formerly enjoyed by the maternal uncle.[14]

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[6] *ibid.*

[7] *ibid.* The engagement customs of the Abkhaz have been described quite fully by Seidlitz in his "Die Abchasen," *Globus*, LXVI (1894), p. 40.

[8] In Salati, Aukh, and Ichkeria matchmakers arrange the marriage ("Sbornik adatov žitelej Nagornago Okruga, 1864 goda," Leontovič, II, p. 144, § 92).

[9] Jakovlev, *Ingali*, pp. 50 f.

[10] Berže, *Čečnja i Čečency*, p. 97.

[11] Grabovskij, "Ekonomičeskij i domašnij byt žitelej gorskago učastka Inguševskago Okruga," SSKG, III (1870), p. 20.

[12] Leontovič, II, pp. 251, §§ 149, 151; Berže, *op. cit.*, p. 98; Dubrovin, *Istorija*, I, i, p. 427.

[13] Leontovič, II, p. 251, § 151.

[14] *Cf.* Kovalevskij, "La Famille matriarcale au Caucase," *L'Anthropologie*, IV (1893), pp. 271 f.

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855 a 593 total want of manliness. On one occasion, stung by the jeers of the men in his native regiment, he drew his 'kinjal' and crying: 'I love my son, but you shall see also that I don't mind killing him', was about to do so when they seized his arm and succeeded in calming him."[107] A better example to illustrate the necessary distinction between love and public manifestation of that love we can hardly offer. "I love my son, but you shall see also that I don't mind killing him!" A paradox which a Western mind finds very difficult to grasp![108]

The neighbouring SOUTHERN CAUCASIANS, the Khevsurs, have the same taboo. A father may never carry his child before others or even say a friendly word to it. The most that the father may do is hold the child by hand when it is old enough to walk.[108a]

The neighbouring OSSETES observe the same rule. Here too it is not a lack of affection but a convention, which under no condition may be violated. "Neither husband nor wife might take their children in their arms, or by hand, or give them anything, in the presence of older members of his family. 'So far is this carried,' said Ourousbi [the Author's guide, an Ossete] 'that once one of my children fell into the water and might have been drowned, but as older men of the family were present I did not dare to call attention to the fact, much less take the child out of the water myself. Luckily one of them saw what was happening and saved it.'"[109] "So, too, Kosta Khetagouroff, the Ossetine poet, saved a child from falling off a high house-roof by stamping on its garments, but called a woman to pick it up as it would have been against custom for him to do so; and one of the Abayeffs, having in identical circumstances saved a child, called to its mother—his own wife—'Here, come and pick up your puppy!' (Cursin, *Osetini*, p. 40)." Baddeley claims that in this respect a change has taken place, and as proof, points out that in several of his own photographs Ourousbi is seen carrying a friend's baby. But here Baddeley forgets that the prohibition is not to carry a *friend's* baby but to carry *one's own* child.

§ 10. CONCLUSIONS

842 628 We have already mentioned the main reason why boys are preferred to girls, namely the patriarchal, patrilocal, and patrilineal structure of the North Caucasian and neighbouring societies. But there is still another reason, based on intertribal relations and on the poverty of the mountain tribes, which leads them to a life of raids and robbery. The Caucasus is a typical land of blood-feuds. In the Terek Province, for example, with a population of about 930,000, there were in one year 365 cases of homicide or attempted homicide, an average of one a day. Feuds accounted for most of them.[110] The rest were the result

[107] Baddeley, *op. cit.*, II, pp. 87 f.

[108] Cf. Dubrovin, I, i, p. 440.

[108a] Hahn, *Bilder aus dem Kaukasus*, p. 81. For the practice in the Government of Elizabethpol, see E. Melik-Šachnazarov, "Selenie Arcevanik, Zangezurskago uězda, Elisavetpol'skoj Gubernii," SMOMPK, XXV (1898), No. 2, p. 43.

[109] Baddeley, *op. cit.*, I, p. 269, from whom we borrow also the following citation of Cursin.

[110] Baddeley, *op. cit.*, I, p. 81.

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of raids and robberies. Girls are useless in these tasks, whereas, in this struggle for existence, every additional boy means greater security and prestige.

In conclusion, we may ask ourselves, just why should the *adats* prohibit the manifestation of one's affection for a child. The reason behind this customary law seems to be founded not so much on a father-child relation as on the male-female relation of the Caucasian society. If a father were to show his affection for his child, were he to fondle and carry it, he would be imitating a *woman*, and that would be a terrible degradation! This degradation will be better understood in the following chapter. This rule to my mind is linked up with the low position of the female sex. Just as a man may never do a task that is established by the *adats* as a task exclusively for women, e. g., milk cows, fetch water, gather wood, so a man may never carry, fondle, or rock his child. Cursin seems to be of the same opinion. He says that the Ossetes would call such a man by a very insulting name, "baba," that is, "old lady," if he would ever dare to milk a cow or look after children.[111] We wish to stress two facts: first of all, it is not a lack of affection for one's child that is prohibited, as we have said, but the *manifestation* of that love; and secondly, the manifestation of love is forbidden simply out of fear of being considered an "old lady," a woman!

[111] G. F. Cursin, *Osetini, etnografičeskij očerk*, p. 39.

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562 [606] respect her rights. Chechen women enjoy considerably more freedom than do the women in Daghestan.[65] But even the Lesghian women are not entirely without rights. We have seen how in matters regarding engagement and marriage the mother plays an important part. This may be a vestige of an ancient mother-right culture.

The SOUTHERN CAUCASIANS. Despite the slavish condition to which the South Caucasian *adats* condemn the female sex, the women are given certain unusual privileges, enjoyed not even by the menfolk. In Khevsuria[66] and Svanetia,[67] just as in W. Circassia[68] and OSSETIA,[69] a woman is able to put an end to a savage duel by a mere word or by her very presence. The Svan need but touch her and he is, at least temporarily, secure even in the presence of his bitterest enemy.[70]

Finally, we should not forget that the women are the official owners of their engagement and wedding gifts, and if divorced, also of the *kebin*.[71]

§ 4. PROBLEMS

562 ● 628 [171] The two main problems of this chapter are: (1) Why must the women do most of the work? (2) Why is the status of women throughout the Caucasus so unfavourable? These questions can be answered only in the light of our entire study and in the light of the entire culture of the North Caucasians. Her unfavourable and still privileged position as mistress of the house and as an asylum for any murderer resembles very closely the condition of the women in a society such as that found among pastoral nomads of Asia. It is indeed difficult to determine just in how far the pastoral nomads of Asia are responsible for the status of women in North Caucasus and in how far the general economic conditions among the mountaineers have contributed to the position of the female sex. Here we wish to point out one important contributing factor, raids and blood-feuds. By no means do we maintain that this is the *most* important or the *only* factor; it is, however, *a very important* one. Any mountaineer may object to the accusation that he is an idler by saying: "We men are constantly exposing our lives for our wives and children, while the women are able to work in peace and security. How can we be soldiers and farmers at the same time?" Amirov heard the same argument used in Kaitago-Tabassaran, where formerly there was hardly a man in all Kaitago that had not killed or cooperated in killing another man. As a consequence of feuds, the men had to be constantly on the lookout, constantly hiding, and frequently

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[65] B. Plaetschke, *Die Tschetschenen*, p. 33.
[66] Essad-Bey, *op. cit.*, p. 267.
[67] Dirr, FT, p. 43.
[68] Mourier, *Guide au Caucase*, I, p. 136.
[69] N. F. Takoeva, "Kosta Chetagurov — narodnyj poet osetin etnograf-kavkazoved," SE, 1949, No. 2, p. 129.
[70] Dirr, *l. c.*
[71] Kovalevskij, *Zakon*, I, p. 143.

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away from home.[72] It is indeed striking that, with the disappearance of blood-feuds, the men have begun to take a more and more active part in the family work.[73]

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[72] Amirov, "Sredi gorcev severnago Dagestana," SSKG, VII (1873), p. 48.
In regard to the Chechens, see Dubrovin, *Istorija*, I, i, pp. 437 f.

[73] For more material on the position of the female sex in the Caucasian society see the following: Olearius, *Ueber den Zustand Russlands zur Zeit des Alexei Michailowitsch*; J. de Lucca, *Rélations des Tartares, Percopites et Nogaies, des Circassiens, etc.*; Ramusio, *Raccolta di Viaggi*.
Hahn, "Putešestvie v Kachetiju i Dagestan," SMOMPK, XXXI (1902), No. 2, pp. 49—96.
Alichanov, Series of articles in the *Kavkaz*, "V gorach Dagestana."
Leontovič, "Otnošenie muža k žene," *Adaty Kavkazskich Gorcev*, II, pp. 98 ff.
Mačavariani, "Někotoryja čerty iz žizni abchazcev. Položenie ženščiny v Abchazii," SMOMPK, IV (1884), No. 2, pp. 40—76.
Zacharov, "Domašnij i socialnyj byt ženščiny u Zakavkazskich Tatar," SMOMPK, XX (1894), pp. 91—151.
Steinberg, "Pravovyje položenije ženščiny v Dagestaně," *Novij Vostok*, 1929, No. 26—27.

Chapter XII

Sexual Offenses

§ 1. CRIMES AND PENALTIES

684 628 The ancient customary law of the NORTHWESTERN CAUCASIANS imposes a death penalty on the adulteress, allowing the adulterer to go unpunished. According to Cherkess *adats* she might be killed in the act or anytime afterwards,[1] while the male partner had always to be spared. It is true, Leontovič's excellent collection of customary laws maintains the very contrary, expressly stating that the adulterer had to be punished too,[2] but the penalty imposed on him is doubtless an Islamic innovation.[3]

585 According to ancient customary law, the lot of the unfortunate bride found unchaste on her wedding night did not differ from that of the adulteress caught in the act. If the bride did not pass the virginity test, the angry groom would at once dismiss her, hand her over to her disgraced and furious father to be mutilated and finally killed.[4]

836 In case of pregnancy before marriage, the penalty imposed on the lover was somewhat less than the equivalent of bloodwite,[5] about twenty-five head of cattle, as Longworth found it in the beginning of the last century.[6]

Customary law hardly distinguishes between rape and abduction, although the collections do, for rape generally has the same purpose as bride capture. Rape is severely punished, as severely as murder. If the ravisher's life has been spared, he is obliged to pay as much as Rs. 150 in reparation for the insult suffered by the victim's sib, and besides this fine, he is forced to pay the usual *kalym*. He is also forced to marry the girl, for, generally, once raped, she has no hope of finding another mate. If the victim happens to be of a higher social class than the attacker, there is no reconciliation possible. Vengeance alone can atone for such a hideous crime.[7]

Incest is considered a qualified crime and is sanctioned by the severest penalties. Formerly if a Cherkess dared to marry a girl of his fraternity (*tleush*)[8]

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[1] Dubrovin, *Istorija*, I, i, p. 171.

[2] Leontovič, I, p. 254, § 109: "Imějuščij ženu i uličennyj v preljubodělj anii, po zakonu lišaetsja žizni, no tot že potupok, soveršennyj cholopom, podvergaet ego nakazaniju sta udarami; èto nazyvaetsja chod-tazir."

[3] Dirr, AGKB, p. 82.

[4] Byhan, *La civilisation caucasienne*, p. 155.

[5] Post, *Grundriß der ethnol. Jurispr.*, II, p. 378.

[6] *A Year among the Circassians*, I, p. 217.

[7] Grabovskij, "Očerk suda i ugolovnych prestuplenij v Kabardinskom okrugě," SSKG, IV (1870), pp. 42 f.

[8] *Supra*, p. 55.

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he would be sentenced to death by drowning. In the nineteenth century a heavy fine of 200 oxen and immediate separation were insisted upon instead.[9]

The penalty for raping a boy before puberty is death. Of course, such cases of perversion are very rare.[10] Likewise extremely rare are cases of homosexuality and bestiality,[11] except among certain Cherkess horse-breeders among whom bestiality is more common and the penalty trivial or none at all.[12]

The *adats* have evidently gone through a distinct evolution, from unusual severity imposed exclusively on the adulteress to a more moderate form of punishment affecting both partners. Dubois de Montpéreux observed how a husband, who would clip his wife's hair for adultery, then cut off her ear, arm, or nose and finally kill her, fully in accord with ancient *adats*,[13] would thereby become a blood-enemy of his wife's relatives. He therefore usually preferred to divorce her instead[14] and have the *kalym* refunded.[15] Vasil'kov reported in the beginning of this century that among the Temirgoi illicit intercourse was extremely rare and that *both* partners would be punished very severely. If caught in the act, they would be buried up to their necks and then stoned to death.[16]

The NORTHEASTERN CAUCASIANS. The Chechen customary law likewise imposes very severe penalties for adultery, as the following table clearly shows (Table No. 19).

The most serious sex offenses are those of rape and incest. If an Ingush woman (married or single) is raped, the attacker may be killed on the spot. If he manages to escape, a bitter blood-feud breaks out between the sibs of the offended and offender. In *adat* courts confession of the culprit or the accusation of the victim are considered undeniable evidence. The accused can prove himself not guilty by taking an oath, which must then be confirmed by the statements of five conjurors,[17] two of whom must be relatives. If the defendant hesitates to take the oath or fails to find sufficient conjurors who are convinced of his innocence (and hence who are not afraid of the supernatural sanction attached to such an oath), he must pay a fine of 24 cows if the victim happened to be a married woman,[18] and a horse worth 30 silver rubles, a ram and four kettles of *arrack* if she happened to be unmarried.[19] The ravisher, as usual, must marry the girl he attacked.[20] If the girl has already been engaged to someone,

[9] McLennan, *Studies in Ancient History*, p. 76.
[10] At least in Kabardia, according to Grabovskij, *op. cit.*, p. 43.
[11] *ibid.*
[12] Grabovskij, *op. cit.*, p. 44.
[13] Amputation of the adulteress' ears and nose is a punishment found throughout the Caucasus; today, of course, it is rare. It is indeed interesting to note that a Hittite code (about 1350 B. C.) engraved on a stele has been dug up, which legalized such mutilation in case of adultery (cf. H. C. E. Zacharias, *Protohistory*, p. 258).
[14] Dubois de Montpéreux, *Voyage autour du Caucase*, I, p. 132.
[15] Dubrovin, *l. c.*
[16] "Očerk byta Termirgoevcev," SMOMPK, XXIX (1901), No. 1, p. 102.
[17] For the institution of *conjury* see above, pp. 155 f.
[18] Leontovič, II, p. 172, §§ 140, 142.
[19] Leontovič, II, p. 172, § 144.
[20] Leontovič, II, p. 120, § 24. Other adat collections claim the very opposite, cf. Leontovič, II, p. 172, § 147.

The last class of *adats* demand blood for blood. Such customary laws are found, for example, in the Dargwa Province: in Usisha District,[31] Tsudakhar,[32] Akusha District,[33] and in some towns of the naibate of Tilitl-Hidatl,[34] and in the Samur District.[35] The same holds if a husband kills his wife: he becomes a blood-enemy of the wife's relatives and sometimes of his own children. In Bashli (Kaitago-Tabassaran Province),[36] Mahallen Terekeme (Kaitago-Tabassaran Province),[37] Mahal Gamri (Kaitago-Tabassaran Province),[38] and in the Province of Samur,[39] a husband who has murdered his wife becomes a blood-enemy of her relatives. In Mahal Gamri he becomes a blood-enemy of his children as well.[40]

Ancient GEORGIAN *adats* permit the murderer to go unpunished, the crime being "left to the judgement of God."[41] A Khevsur who murders his wife is obliged to pay a bloodwite of five cows to her relatives.[42] The Svan custom of tying a large stone about the neck of a person who murdered one of his own kin (as a sign of excommunication) is most likely of Christian origin. It reminds us very much of a similar penalty for parricide in the Old Testament. It may, less probably though, have come to Svanetia through Islamism, for Mohammedanism has borrowed this form of excommunication from the Old Testament.[43]

The neighbouring KUMYKS do not punish a man for murdering his child either.[44] Uxoricide, however, never goes unpunished; the murderer becomes *a qanly* of the victim's sib.[45]

The ancient Indo-Europeans used to place the newborn child on the ground and then invite the father to pick it up, as an official recognition of the child as his own and at the same time expressing his wish not to use his right to kill it.[46] According to OSSETINE customary law, a father may kill his child with

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[31] ADOiZO, p. 225, § 47; cf. Dirr, AGKB, p. 61; "Adaty Darginskich Obščestv," p. 102.
[32] ADOiZO, p. 244, § 40; cf. Dirr, AGKB, pp. 61 f; "Adaty Dauginskich Obščestv," pp. 113 f.
[33] "Adaty Darginskich Običestv," p. 35. Also in Balhar, Tsumkan, according to ADOiZO, p. 215, § 43; cf. Dirr, p. 61.
[34] ADOiZO, p. 337, § 12; cf. Dirr, AGKB, p. 60.
[35] ADOiZO, p. 530, § 16; cf. Dirr, AGKB, p. 61.
[36] ADOiZO, pp. 597 f, §§ 14 f; cf. Dirr, AGKB, p. 65.
[37] ADOiZO, p. 583, § 9; cf. Dirr, AGKB, p. 65.
[38] ADOiZO, pp. 588 f, § 14; cf. Dirr, AGKB, pp. 65 f.
[39] ADOiZO, p. 530, § 14; cf. Dirr, AGKB, p. 66.
[40] ADOiZO, pp. 599 f, § 14; cf. Dirr, AGKB, pp. 65 f.
[41] Haxthausen, *Transcaucasia*, II, p. 205; Post, *Grundriß der ethnol. Jurisprudenz*, II, p. 340; cf. Dirr, AGKB, p. 59. These three authors base their assertion on King Vakhtang's Code. In § 78 we read: "... the case must be judged according to the *sdzhuli-kanoni*". Perhaps in the last analysis "sdzhuli-kanoni" can be identified with God; but actually these two words refer to the ecclesiastical laws codified by Patriarch John the Scholastic under Emperor Justinian (cf. Code of King Vakhtang VI, ed. Karst, p. 119, *note 1*).
[42] Hahn, *Bilder aus dem Kaukasus*, p. 184.
[43] Kovalevskij, *Zakon*, I, p. 40.
[44] Leontovič, II, p. 212, § 35 (an *adat* of 1865).
[45] "Adaty žitelej kumykskoj ploskosti," SSKG, VI (1872), p. 5.
[46] Schmidt-Koppers, *Völker und Kulturen*, p. 309.

[i.e. blood-enemy --Analyst]

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(14) Then there is the fact that *a woman constitutes an asylum* for any murderer,[27] a fact found among the North Caucasians as well as among the Asiatic nomads.

(15) The *adats regarding divorce*,[28]

(16) the *penalties for sexual offenses*,[29]

(17) the *division of labour*,[30] allowing men plenty of time for loafing, sport, and raids,

(18) and many other *adats which place the female sex at a great disadvantage*[31] remind us very much of a pastoral society.

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(19) Then, of course, there are the many other features of the North Caucasian marriage and family *adats* which we have been able only to touch upon rather superficially, for they refer to the joint-family and kinship in general rather than to the biological family. The North Caucasian society, for example, has had till recently a *patriarchal joint-family organization*[32] very similar to that found among pastoral nomads. Just as among the Indo-Europeans and the Turco-Mongols the central interest of the North Caucasian has been, and in places still is, the joint-family. According to the *adats*, the individual family, till it becomes independent, plays a very subordinate part in society. The tribe and state mean but little. Crimes, criminals, and penalties in the strict sense of the word are of very recent origin : any damage done to the sib (not so much to any individual !), whether accidental or intentional, are the only form [681] of "crime" found in the *adats*. The reparation of the damages made by the "offending" sib (not the individual who inflicted the harm) corresponds to our [428] concept of penalty. We have also said very little about the *inheritance rights* of the mountaineers of North Caucasia, for to speak of inheritance without first describing the joint-family and kinship *adats* would be impossible. It seems that originally, just as is the case in pastoral nomadic societies, the rights were restricted to the male children with special privileges reserved for the first-born [608] son. Finally, there is hardly another place in the world where *blood-feuds* are so common as in the Caucasus ; and, we know, pastoral nomadic peoples have always been fond of settling their quarrels in this particular manner, more so than any other people. In a word, we are dealing with a "pastoral nomadic" marriage and family when we deal with North Caucasian marriage and family *adats*.

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We must however, keep in mind that there are different zones of intensity of nomadic traits : in North Caucasia the most pastoral nomadic in character are the marriage and family of the Cherkess ; then perhaps follow those of the Abkhaz, then the Chechens, and finally the Lesghians. The Ossetine *adats* are perhaps even more typically pastoral nomadic than those of the Cherkess. The Kumykian and Nogain *adats*, as well as those of other Turco-Mongols of North Caucasus,

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[27] *Supra*, pp. 159 f.
[28] *Supra*, pp. 132—137.
[29] *Supra*, pp. 168—179, 182.
[30] *Supra*, pp. 156—159.
[31] *Supra*, pp. 152—156.
[32] *Supra*, pp. 44 f.